

FILED

MAY 28 1998

Commission on
Judicial Performance

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE
NANCY BROWN, NO. 149.

NOTICE OF FORMAL PROCEEDINGS

To Nancy Brown, a judge of the Los Angeles County Municipal Court from November 8, 1976, to December 21, 1984, and a judge of the Los Angeles County Superior Court from December 21, 1984, to the present:

Preliminary investigation pursuant to Rules of the Commission on Judicial Performance, rules 109 and 111, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein.

By the following allegations, you are charged with willful misconduct in office, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, improper action, and dereliction of duty within the meaning of Article VI, section 18 of the California Constitution providing for removal, censure, or public or private admonishment of a judge or former judge, to wit:

COUNT ONE

In approximately 1994, you banned Los Angeles County Criminal Court Coordinator John Iverson from your courtroom and you have continued the ban in effect through the present. The ban has interfered with Mr. Iverson's ability to obtain information about the status of your cases, your availability and the availability of your courtroom, and therefore has made case assignment by the supervising judges of the Los Angeles County criminal courts more difficult and has interfered with the efficient administration of court business.

You failed to cooperate with other judges and court officials in the administration of court business. Your conduct violated the former Code of Judicial Conduct, canon 3C(1), and the Code of Judicial Ethics, canon 3C(1).

COUNT TWO

In a case receiving extensive publicity, brothers Lyle Menendez and Erik Menendez were convicted of murder. Los Angeles County Superior Court Judge Stanley Weisberg presided. The Menendez defendants were scheduled to be sentenced by Judge Weisberg on July 2, 1996. Neither Menendez brother had any matter pending before you.

At the request of Erik Menendez' attorney, you agreed to perform a marriage ceremony for defendant Lyle Menendez. On June 11, 1996, you ordered that Lyle Menendez and Erik Menendez, who were in custody, be transported from the jail to your courtroom or chambers on July 1, 1996, for the sole purpose of the marriage ceremony. The Menendez defendants did not have any court appearances scheduled for July 1, 1996, and would not otherwise have been transported to the courthouse from jail. You arranged for bailiffs to be present during the marriage ceremony which you intended to perform during lunch recess.

Shortly before July 1, 1996, you learned that your order to transport the Menendez defendants had been rescinded by Judge John Reid, the acting criminal courts supervising judge. On July 1, 1996, with nothing pending before you in the Menendez case and sentencing scheduled to take place the next day before Judge Weisberg, you addressed matters involving the Menendez defendants on the record in open court. Media representatives were present, from whom you invited questions. You commented on the pending Menendez case as being “a true American tragedy.” You said that you were “offended” by Judge Reid rescinding your order to transport the defendants. You told a reporter that you suspected he “may be right” that Judge Reid had “more of a cynical reason for the rescinding of your order than the excuse given that it would cost taxpayers money....”

You improperly used your judicial power, improperly authorized the use of public resources, publicly commented on a pending case, and publicly disparaged a fellow judge. Your conduct violated the Code of Judicial Ethics, canons 1, 2A and 3B(9).

COUNT THREE

For various periods from approximately 1991 through the present, you displayed an artificial marijuana plant in your courtroom and chambers while you conducted judicial business, which included presiding over drug related criminal cases.

Displaying the plant in your court and chambers was inconsistent with your judicial obligation to maintain appropriate decorum and gave the appearance that you might not be fair and impartial in, or might not take seriously, matters that involved the subject of drugs. Your conduct violated the former Code of Judicial Conduct, canons 1 and 2A, and the Code of Judicial Ethics, canons 1 and 2A.

COUNT FOUR

From at least 1994, you smoked tobacco products in chambers and allowed others to smoke in your chambers, in violation of the California Rules of Court, rule 989.5, and the California Labor Code, section 6404.5.

In response to an October 27, 1997, preliminary investigation letter from the Commission on Judicial Performance, you admitted smoking in chambers. Rather than give assurance that you would comply with the smoking laws, however, you implied that smoking in your chambers would continue. Smoking in your chambers has continued at least through April 1998.

Your conduct violated the former Code of Judicial Conduct, canons 1 and 2A, and the Code of Judicial Ethics, canons 1 and 2A.

YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 101 Howard Street, Suite 300, San Francisco, California 94105. The answer shall be verified and shall conform in style to subdivision (c) of rule 15 of the Rules on Appeal. The notice of formal proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

This notice of formal proceedings may be amended pursuant to
Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATED: May 14, 1998



CHAIRPERSON

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ACKNOWLEDGEMENT OF SERVICE
OF THE NOTICE OF FORMAL
PROCEEDINGS

I, Ephraim Margolin, on behalf of my client, the Honorable Nancy Brown, hereby waive personal service of the Notice of Formal Proceedings in Inquiry No. 149 and agree to accept service by mail. I acknowledge receipt of a copy of the Notice of Formal Proceedings by mail and, therefore, that Judge Brown has been properly served pursuant to Rules of the Commission on Judicial Performance, rule 118(c).

Dated: _____

5/26/98



Ephraim Margolin, Esq.
Attorney for Judge Nancy Brown,
Respondent